

University of California, Hastings College of the Law
UC Hastings Scholarship Repository

Initiatives

California Ballot Propositions and Initiatives

10-3-1988

Criminal Law. .

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_inits

Recommended Citation

Criminal Law. . California Initiative 457 (1988).
http://repository.uchastings.edu/ca_ballot_inits/622

This Initiative is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Initiatives by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.



Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

#457


ELECTIONS DIVISION
(916) 445-0820

For Hearing and Speech Impaired
Only:
(800) 833-8683

March 8, 1989

TO: All County Clerks/Registrars of Voters and
Proponents (8911)

FROM:


DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

Pursuant to Elections Code section 3520(b) you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE STATUTE AND CONSTITUTIONAL AMENDMENT filed with all county clerks is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has failed.

TITLE: CRIMINAL LAW.
CONSTITUTIONAL AMENDMENT.
INITIATIVE STATUTE.

SUMMARY DATE: October 3, 1988

PROPOSERS: Senator Edward R. Royce
Senator Ed Davis
Robert L. Henderson
Edward R. Jagels
Richard J. Riordan
Doris G. Tate
James P. Cloninger
Sterling E. Norris
Albert H. MacKenzie
Anthony J. Rackauckas, Jr.
Supervisor Peter F. Schabarum

DS/1/gw



Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

#457

ELECTIONS DIVISION
(916) 445-0820

For Hearing and Speech Impaired
Only:
(800) 833-8683

October 3, 1988

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (88225)

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

CRIMINAL LAW.
CONSTITUTIONAL AMENDMENT.
INITIATIVE STATUTE.

Circulating and Filing Schedule

1. Minimum number of signatures required..... 595,485
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date..... Monday, 10/03/88
Elec. C., Sec. 3513.
3. Petition Sections:
 - a. First day Proponent can circulate Sections for
signatures..... Monday, 10/03/88
Elec. C., Sec. 3513.
 - b. Last day Proponent can circulate and file with
the county. All Sections are to be filed at
the same time within each
county..... Thursday, 03/02/89
Elec. C., Secs. 3513, 3520(a).
 - c. Last day for county to determine total number
of signatures affixed to petition and to
transmit total to the Secretary of State..... Thursday, 03/09/89

(If the Proponents file the petition with the county on a date prior to 03/02/89, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

CRIMINAL LAW.
CONSTITUTIONAL AMENDMENT.
INITIATIVE STATUTE.

Page 2

October 3, 1988

d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties..... Saturday, 10/18/89**

e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State..... Sunday, 04/02/89

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 03/09/89 the last day is not later than the fifteenth day after the county's receipt of notification.)
Elec. C., Sec. 3520(d), (e).

f. If the signature count is more than 655,033 or less than 565,711, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 565,711 and 655,033 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures..... Wednesday, 04/12/89**

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State..... Wednesday, 05/24/89

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 04/02/89, the last day is not later than the thirtieth working day after county's receipt of notification.)
Elec. C., Sec. 3521(b), (c).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient..... Sunday, 05/28/89

**Date varies based on receipt of county certification.

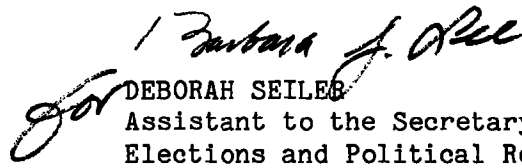
CRIMINAL LAW.
CONSTITUTIONAL AMENDMENT.
INITIATIVE STATUTE.

Page 4

October 3, 1988

- (d) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (e) When filing the petition with the county elections official, please provide a blank petition for elections official use.

Sincerely,


DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

Attachment: POLITICAL REFORM ACT OF 1974 REQUIREMENTS

10/03/88

4. The Proponents of the above named measure are:

Senator Edward R. Royce
1254 North Lighthouse Lane
Anaheim, California 92803

James P. Cloninger
6749 East Waterton Avenue
Orange, California 92667

Senator Ed Davis
23515 Lyons Avenue, Unit 120
Valencia, California 91355

Sterling E. Norris
17213 Tuba Street
Northridge, California 91324

Robert L. Henderson
41958 Juniper Street
Murrieta, California 92362
c/o P.O. Box 438
Murrieta, California 92803

Albert H. MacKenzie
5856 Flambeau Road
Rancho Palos Verdes, California 90274
c/o 800 W. First St., #2709
Los Angeles, California 90012

Edward R. Jagels
District Attorney
965 Fairway Drive
Bakersfield, California 93309

Anthony J. Rackauckas, Jr.
4405 East Ridge Gate Road
Anaheim, California 92807

Richard J. Riordan
141 North Bristol Avenue
Los Angeles, California 90049

Supervisor Peter F. Schabarum
19770 East Golden Bough Drive
Covina, California 91724

Doris G. Tate
6240 Monero Drive
Rancho Palos Verde, California 90274

5. Important Points:

- (a) Please refer to Elections Code sections 44, 3501, 3507, 3508, 3517, and 3519 for appropriate format and type considerations in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.
- (b) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (c) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.

Date: October 3, 1988
File No: SA 88 RF 0014

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

CRIMINAL LAW: CONSTITUTIONAL AMENDMENT. INITIATIVE STATUTE.

Amends Constitution regarding criminal cases to: direct courts afford accused no greater constitutional rights than afforded by federal Constitution; prohibit post-indictment preliminary hearings; express people's right to due process and speedy, public trials; permit hearsay at preliminary hearings; allow more joined actions; provide reciprocal discovery. Makes implementing statutory changes. Other changes include: expanding first degree murder definition; increasing penalties for specified murders; expanding special circumstance murders subject to capital offense provisions; increasing maximum punishment of minors convicted of first degree murder to life without parole; limiting preliminary examination testimony and discovery; limiting jury questioning. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: It is impossible to determine the magnitude of additional costs relating to the provisions relating to murder, torture, and sentence reduction credits for want of data. Provisions relating to judicial proceedings could affect their length and number. Some could result in savings; some in higher costs. The magnitude of any net savings is impossible to quantify.

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



P.O. BOX 944255
SACRAMENTO 94244-2550
Public Inquiry Unit: (916) 322-3360

Toll Free—California Only:
800-952-5225
(916) 324-5508

October 3, 1988

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, CA 95814

FILED
In the office of the Secretary of State
of the State of California

OCT - 3 1988

MARCH FONG EU, Secretary of State

By *[Signature]*
Deputy

Dear Mrs. Eu:

Initiative Title and Summary.
Subject: CRIMINAL LAW. CONSTITUTIONAL AMENDMENT.
INITIATIVE STATUTE.
Our File No: SA 88 RF 0014

Pursuant to the provisions of section 3503 and 3513 of the Elections code, you are hereby notified that on this day we mailed to the proponent of the above identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name and address of the proponent is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Mary Whitcomb

MARY WHITCOMB
Initiative Coordinator

MW:rrc

Enclosures

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



P.O. BOX 944255
SACRAMENTO 94244-2550
Public Inquiry Unit: (916) 322-3360

Toll Free—California Only:
800-952-5225
(916) 324-5508

October 3, 1988

Senator Edward R. Royce
1254 North Lighthouse Lane
Anaheim, CA 92803

Senator Ed Davis
23515 Lyons Avenue, Unit 120
Valencia, CA 91355

Robert L. Henderson
41958 Juniper Street
Murrieta, CA 92362
c/o P.O. Box 438
Murrieta, CA 92362

Edward R. Jagels
District Attorney
965 Fairway Drive
Bakersfield, CA 93309

Richard J. Riordan
141 North Bristol Avenue
Los Angeles, CA 90049

Doris G. Tate
6240 Monero Drive
Rancho Palos Verdes, CA 90274

James P. Cloninger
6749 East Waterton Avenue
Orange, CA 92667

Sterling E. Norris
17213 Tuba Street
Northridge, CA 91324

Albert H. MacKenzie
5856 Flambeau Road
Rancho Palos Verdes, CA 90274
c/o 800 W. First St., #2709
Los Angeles, CA 90012

Anthony J. Rackauckas, Jr.
4405 East Ridge Gate Road
Anaheim, CA 92807

Supervisor Peter F. Schabarum
19770 East Golden Bough Drive
Covina, CA 91724

Dear Proponents:

Initiative Title and Summary.
Subject: CRIMINAL LAW. CONSTITUTIONAL AMENDMENT.
INITIATIVE STATUTE.
Our File No: SA 88 RF 0014

Pursuant to your request, we have prepared the attached title and summary of the chief purposes and points of the above identified proposed initiative. A copy of our letter to the Secretary of State, as required by Elections Code sections 3503 and 3513, our

Senator Royce, et al.
October 3, 1988
Page 2

declaration of mailing, and the text of your proposal that was considered is attached.

The Secretary of State will be sending you shortly a copy of the circulating and filing schedule for your proposal that will be issued by that office.

Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

A handwritten signature in cursive script that reads "Mary Whitcomb".

MARY WHITCOMB
Initiative Coordinator

MW:rrc

Enclosures

DECLARATION OF MAILING

The undersigned Declarant, states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy of copies of the attached letter to the proponents, by placing a true copy thereof in an envelope addressed to the proponents named below at the addresses indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: October 3, 1988

Initiative Title and Summary.

Subject: CRIMINAL LAW. CONSTITUTIONAL AMENDMENT.
INITIATIVE STATUTE.

Our File No: SA 88 RF 0014

Name of Proponents and Addresses:

Senator Edward R. Royce
1254 North Lighthouse Lane
Anaheim, CA 92803

James P. Cloninger
6749 East Waterton Avenue
Orange, CA 92667

Senator Ed Davis
23515 Lyons Avenue, Unit 120
Valencia, CA 91355

Sterling E. Norris
17213 Tuba Street
Northridge, CA 91324

Robert L. Henderson
41958 Juniper Street
Murrieta, CA 92362
c/o P.O. Box 438
Murrieta, CA 92362

Albert H. MacKenzie
5856 Flambeau Road
Rancho Palos Verdes, CA 90274
c/o 800 W. First St., #2709
Los Angeles, CA 90012

Edward R. Jagels
District Attorney
965 Fairway Drive
Bakersfield, CA 93309

Anthony J. Rackauckas, Jr.
4405 East Ridge Gate Road
Anaheim, CA 92807

Richard J. Riordan
141 North Bristol Avenue
Los Angeles, CA 90049

Supervisor Peter F. Schabarum
19770 East Golden Bough Drive
Covina, CA 91724

Doris G. Tate
6240 Monero Drive
Rancho Palos Verdes, CA 90274

DECLARATION OF MAILING CONTINUED
PAGE 2

I declare under penalty of perjury that the foregoing
is true and correct.

Executed at Sacramento, California, October 3, 1988.

A handwritten signature in cursive script, reading "Rosemary R. Calderon". The signature is written in dark ink and is positioned above a horizontal line.

ROSEMARY R. CALDERON

Declarant

(916) 323-1941

OFFICES

STATE CAPITOL ROOM 4053
SACRAMENTO 95814
(916) 445-5831

1661 NORTH RAYMOND AVENUE #211
ANAHEIM, CA 92801
(714) 871-0270
(213) 721-3276
ATSS 8-657-6420

Amendment #1
SA88RF0014

Senate

California Legislature



EDWARD R. ROYCE
STATE SENATOR
THIRTY-SECOND DISTRICT

August 29, 1988

COMMITTEES
CONSTITUTIONAL AMENDMENTS
CHAIRMAN
PUBLIC EMPLOYMENT AND
RETIREMENT VICE CHAIRMAN
REVENUE AND TAXATION
VICE CHAIRMAN
BUSINESS AND PROFESSIONS
HEALTH AND HUMAN SERVICES
HOUSING AND URBAN AFFAIRS
INDUSTRIAL RELATIONS
SELECT COMMITTEE ON
DRUG AND ALCOHOL ABUSE
SELECT COMMITTEE ON
GOVERNMENTAL EFFICIENCY
JOINT COMMITTEE ON
THE STATE'S ECONOMY
JOINT OVERSIGHT COMMITTEE
ON GAIN WORKFARE
IMPLEMENTATION
SMALL BUSINESS DEVELOPMENT
BOARD
SENATE COMMISSION ON
CORPORATE GOVERNANCE
SHAREHOLDER RIGHTS AND
SECURITIES TRANSACTIONS

Mr. Floyd D. Shimomura
Deputy Attorney General
1515 K Street, Suite 511
Sacramento, California 95814

Dear Mr. Shimomura:

I recently discovered several typographical errors in the Crime Victims' Justice Reform Act initiative (File # 88 RF 0014) which I filed with your office earlier this month.

On page 14, line 19 the section referenced should be (16) rather than (17). The same correction needs to be made in line 24 of page 14. On page 15, line 10, the section number should also be (16) rather than (17).

I have attached a corrected copy of pages 14 and 15. As you can see, these are purely typographical errors which should not impact the progress of your title and summary.

On another matter, I received your letter of August 15 and would like to suggest that the title and summary your office prepared last year under our original request need not be changed. As I mentioned in my earlier letter, the measures are essentially identical.

Thank you your assistance with these matters. If I can be of any further assistance, please feel free to contact me.

Sincerely,

Ed Royce

Edward R. Royce

ERR:da

ENCLOSURES

STATE CAPITOL ROOM 2048
SACRAMENTO, CA 95814
TELEPHONE: (916) 445-8873

NINETEENTH SENATORIAL DISTRICT

DISTRICT OFFICE:
11145 TAMPA AVENUE
SUITE 21 B
NORTHBRIDGE, CA 91326
(818) 368-1171

Amendment #1
SA88RF0014

ED DAVIS
NINETEENTH SENATORIAL DISTRICT

California State Senate



COMMITTEES

JUDICIARY
VICE CHAIRMAN
BANKING & COMMERCE
CONSTITUTIONAL AMENDMENTS
EDUCATION
INSURANCE, CLAIMS, AND
CORPORATIONS

SELECT COMMITTEES

GOVERNMENTAL EFFICIENCY
LICENSED & DESIGNATED SPORTS
MOTION PICTURE, TELEVISION,
COMMERCIAL & RECORDING
INDUSTRIES

JOINT COMMITTEES

CAMPAIGN AND ELECTION
REFORM
FIRE, POLICE, EMERGENCY,
AND DISASTER SERVICES
LEGISLATIVE PRISON COMMITTEE

September 6, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 K Street
Sacramento, California 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely,

Ed Davis
ED DAVIS

Amendment #1
SA88RF0014

CRIME VICTIMS'
CALIFORNIA JUSTICE COMMITTEE

September 2, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, CA 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely,

Albert Harold MacKenzie
Albert Harold MacKenzie
5856 Flambrey Road
Rancho Palos Verdes, CA 90274
phone (213) 617-0709

Amendment #1
SA 88 RF0014

CRIME VICTIMS'
CALIFORNIA JUSTICE COMMITTEE

September 2, 1988

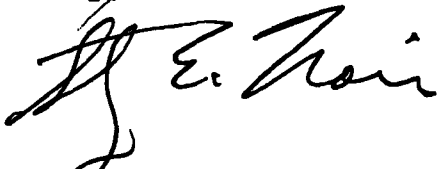
Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, CA 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely,


STERLING E. NOZAIS



*Amendment #1
SA 88 RF 0014*

**BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES**

856 HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012

(213) 974-4111

PETER F. SCHABARUM
SUPERVISOR, FIRST DISTRICT

September 6, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, California 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely yours,

PETE SCHABARUM
Supervisor, First District

PS:bml

*Amendment #1
SA 88RF 0014*

CRIME VICTIMS'
CALIFORNIA JUSTICE COMMITTEE

September 2, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, CA 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely,

Richard J. Riordan
by Trudy L. Spears

September 9, 1988

TO WHOM IT MAY CONCERN:

I am Richard Riordan's secretary. Mr. Riordan is on holiday in France and, in his absence, instructed me to sign the above letter on his behalf. We talked by telephone on September 8, 1988.

Trudy L. Spears
Trudy L. Spears

Amendment #1
SA 88RF 0014

September 2, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, CA 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims California Justice Committee that certain changes need to be made in the text of the Crime Victims Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Very truly yours,



EDWARD R. JAGELS

ERJ/em

Amendment #1
SA88RF0014

CRIME VICTIMS'
CALIFORNIA JUSTICE COMMITTEE

September 2, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, CA 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely,

James P. Cloninger
JAMES P. CLONINGER

*Amendment #1
SA88RF0014*

CRIME VICTIMS'
CALIFORNIA JUSTICE COMMITTEE

September 2, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, CA 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely,

Anthony J. Rackawick Jr.

Amendment #1
SA88RF0014

CRIME VICTIMS'
CALIFORNIA JUSTICE COMMITTEE

September 2, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, CA 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely,

Robert J. Henderson
Executive Committee Member
Calif Justice Committee

Amendment #1
3A88RF0014

CRIME VICTIMS'
CALIFORNIA JUSTICE COMMITTEE

September 2, 1988

Ms. Mary Whitcomb
Office of the Attorney General
1515 "K" Street
Sacramento, CA 95814

Dear Ms. Whitcomb:

I have been notified by the office of Senator Ed Royce and the office of the Crime Victims' California Justice Committee that certain changes need to be made in the text of the Crime Victims' Justice Reform Act initiative. These changes have been explained to me.

I hereby give Senator Ed Royce the authority to submit these changes to your office on my behalf.

Sincerely,

Doris G. Tate

8-29-88

Amendment #1
SA88RF0014

PAGE NO. 1

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

12-point
boldface
Type

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

Type: Roman
boldface
smaller
12-pt.

TO THE HONORABLE SECRETARY OF STATE OF CALIFORNIA

We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the Constitution of California, the Evidence Code, and the Penal Code, relating to criminal law and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed constitutional and statutory amendments (full

title and text of the measure) read as follows:

SECTION 1. (a) We the people of the State of California hereby find that the rights of crime victims are too often ignored by our courts and by our State Legislature, that the death penalty is a deterrent to murder, and that comprehensive reforms are needed in order to restore balance and fairness to our criminal justice system.

(b) In order to address these concerns and to accomplish these goals, we the people further find that it is necessary to reform the law as developed in numerous California Supreme Court decisions and as set forth in the statutes of this state. These decisions and statutes have unnecessarily expanded the rights of accused criminals far beyond that which is required by the United States Constitution, thereby unnecessarily adding to the costs of criminal cases, and diverting the judicial process from its function as a quest for truth.

(c) The goals of the people in enacting this measure are to restore balance to our criminal justice system, to create a system in which justice is swift and fair, and to create a system in which violent criminals receive just punishment, in which crime victims and witnesses are treated with care and respect, and in which

society as a whole can be free from the fear of crime in our homes, neighborhoods, and schools.

(d) With these goals in mind, we the people do hereby enact the Crime Victims Justice Reform Act.

SEC. 2. Section 14.1 is added to Article I of the California Constitution, to read:

SEC. 14.1. If a felony is prosecuted by indictment, there shall be no postindictment preliminary hearing.

SEC. 3. Section 24 of Article I of the California Constitution is amended to read:

SEC. 24. Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution.

In criminal cases the rights of a defendant to equal protection of the laws, to due process of law, to the assistance of counsel, to be personally present with counsel, to a speedy and public trial, to compel the attendance of witnesses, to confront the witnesses against him or her, to be free from unreasonable searches and seizures, to privacy, to not be compelled to be a witness against himself or herself, to not be placed twice in jeopardy for the same offense, and to not suffer the

imposition of cruel or unusual punishment, shall be construed by the courts of this state in a manner consistent with the Constitution of the United States. This Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States, nor shall it be construed to afford greater rights to minors in juvenile proceedings on criminal causes than those afforded by the Constitution of the United States.

This declaration of rights may not be construed to impair or deny others retained by the people.

SEC. 4. Section 29 is added to Article I of the California Constitution, to read:

SEC. 29. In a criminal case, the people of the State of California have the right to due process of law and to a speedy and public trial.

SEC. 5. Section 30 is added to Article I of the California Constitution, to read:

SEC. 30. (a) This Constitution shall not be construed by the courts to prohibit the joining of criminal cases as prescribed by the Legislature or by the people through the initiative process.

(b) In order to protect victims and witnesses in criminal cases, hearsay evidence shall be admissible at

preliminary hearings, as prescribed by the Legislature or by the people through the initiative process.

(c) In order to provide for fair and speedy trials, discovery in criminal cases shall be reciprocal in nature, as prescribed by the Legislature or by the people through the initiative process.

SEC. 6. Section 1203.1 is added to the Evidence Code, to read:

1203.1. Section 1203 is not applicable if the hearsay statement is offered at a preliminary examination, as provided in Section 872 of the Penal Code.

SEC. 7. Section 189 of the Penal Code is amended to read:

189. All murder which is perpetrated by means of a destructive device or explosive, knowing use of ammunition designed primarily to penetrate metal or armor, poison, lying in wait, torture, or by any other kind of willful, deliberate, and premeditated killing, or which is committed in the perpetration of, or attempt to perpetrate, arson, rape, robbery, burglary, mayhem, kidnapping, train wrecking, or any act punishable under Section 288 Section 286, 288, 288a, or 289, is murder of the first degree; and all other kinds of murders are of the second degree.

As used in this section, "destructive device"

shall mean any destructive device as defined in Section 12301, and "explosive" shall mean any explosive as defined in Section 12000 of the Health and Safety Code.

To prove the killing was "deliberate and premeditated," it shall not be necessary to prove the defendant maturely and meaningfully reflected upon the gravity of his or her act.

SEC. 8. Section 190 of the Penal Code is amended to read:

190. (a) Every person guilty of murder in the first degree shall suffer death, confinement in state prison for life without possibility of parole, or confinement in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.25, 190.3, 190.4, and 190.5.

Except as provided in subdivision (b), every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 15 years to life.

The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 of the Penal Code, as that article read on November 7, 1978, shall apply to reduce any minimum term of 25 or 15 years

in a state prison imposed pursuant to this section, but such the person shall not otherwise be released on parole prior to such that time.

(b) Every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in ~~subdivision (a) of~~ Section 830.1, ~~subdivision (a) or (b) of~~ Section 830.2, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew or reasonably should have known that the victim was such a peace officer engaged in the performance of his or her duties.

The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 of the Penal Code shall not apply to reduce any minimum term of 25 years in state prison when the person is guilty of murder in the second degree and the victim was a peace officer, as defined in this subdivision, and such person shall not be released prior to serving 25 years confinement.

(c) The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 of the Penal Code shall not apply to reduce any minimum term of 25 years in a state prison imposed pursuant to this section, and a person so sentenced shall not be otherwise released or paroled prior to that time.

SEC. 9. Section 190.2 of the Penal Code is amended to read:

190.2. (a) The penalty for a defendant found guilty of murder in the first degree shall be death or confinement in state prison for a term of life without the possibility of parole in any case in which one or more of the following special circumstances has been charged and-

-specially-found under Section 190.4, to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was previously convicted of murder in the first degree or second degree. For the purpose of this paragraph an offense committed in another jurisdiction which if committed in California would be punishable as first or second degree murder shall be deemed murder in the first or second degree.

(3) The defendant has in this proceeding been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden or concealed in any place, area, dwelling, building or structure, and the defendant knew or reasonably should have known that his or her act or acts would create a great risk of death to a human being or human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest or to perfect, or attempt to perfect an escape from lawful custody.

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or

cause to be mailed or delivered and the defendant knew or reasonably should have known that his or her act or acts would create a great risk of death to a human being or human beings.

(7) The victim was a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.35, 830.36, 830.4, 830.5, 830.5a, 830.6, 830.10, 830.11 or 830.12, who, while engaged in the course of the performance of his or her duties was intentionally killed, and such defendant knew or reasonably should have known that such victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer as defined in the above enumerated sections of the Penal Code, or a former peace officer under any of such sections, and was intentionally killed in retaliation for the performance of his or her official duties.

(8) The victim was a federal law enforcement officer or agent, who, while engaged in the course of the performance of his or her duties was intentionally killed, and such defendant knew or reasonably should have known that such victim was a federal law enforcement officer or agent, engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the

performance of his or her official duties.

(9) The victim was a fireman as defined in Section 245.1, who while engaged in the course of the performance of his or her duties was intentionally killed, and such defendant knew or reasonably should have known that such victim was a fireman engaged in the performance of his or her duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission, or attempted commission of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this state or any other state, or a federal prosecutor's office and the murder was intentionally carried out in retaliation for or to prevent the performance of the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state or federal system in the State of California or in any other state of the United States and the murder was intentionally carried out in retaliation for or to prevent the performance of the victim's official duties.

(13) The victim was an elected or appointed official or former official of the Federal Government federal government, a local or State state government of California, or of any local or state government of any other state in the United States and the killing was intentionally carried out in retaliation for or to prevent the performance of the victim's official duties.

~~(14)~~ The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity, as utilized in this section, the phrase especially heinous, atrocious or cruel manifesting exceptional depravity means a conscienceless, or pitiless crime which is unnecessarily torturous to the victim.

~~(14)(15)~~ The defendant intentionally killed the victim while lying in wait.

~~(15)(16)~~ The victim was intentionally killed because of his or her race, color, religion, nationality or

country of origin.

(16) ~~(17)~~ The murder was committed while the defendant was engaged in or was an accomplice in the commission of, attempted commission of, or the immediate flight after committing or attempting to commit the following felonies:

(i) Robbery in violation of Section 211 or 212.5.

(ii) Kidnapping in violation of Sections Section 207 and or 209.

(iii) Rape in violation of Section 261.

(iv) Sodomy in violation of Section 286.

(v) The performance of a lewd or lascivious act upon person of a child under the age of 14 in violation of Section 288.

(vi) Oral copulation in violation of Section 288a.

(vii) Burglary in the first or second degree in violation of Section 460.

(viii) Arson in violation of subdivision (b) of Section 447 451.

(ix) Train wrecking in violation of Section 219.

(x) Mayhem in violation of Section 203.

(xi) Rape by instrument in violation of Section 289.

(17)~~(18)~~ The murder was intentional and involved the infliction of torture. For the purpose of this section torture requires proof of the infliction of extreme physical pain no matter how long its duration.

(18)~~(19)~~ The defendant intentionally killed the victim by the administration of poison.

(b) Every person whether or not the actual killer found guilty of intentionally aiding, abetting, counseling, commanding, inducing, soliciting, requesting, or assisting any actor in the commission of murder in the first degree shall suffer death or confinement in state prison for a term of life without the possibility of parole, in any case in which one or more of the special circumstances enumerated in paragraphs ~~(1)~~, ~~(2)~~, ~~(3)~~, ~~(4)~~, ~~(5)~~, ~~(6)~~, ~~(7)~~, ~~(8)~~, ~~(9)~~, ~~(10)~~, ~~(11)~~, ~~(12)~~, ~~(13)~~, ~~(14)~~, ~~(15)~~, ~~(16)~~, ~~(17)~~, ~~(18)~~, or ~~(19)~~ of subdivision (a) of this section has been charged and specially found under Section ~~190.4~~ to be true. Unless an intent to kill is specifically required under subdivision (a) for a special circumstance enumerated therein, an actual killer as to whom such special circumstance has been found to be true under Section 190.4 need not have had any intent to kill at the

time of the commission of the offense which is the basis of the special circumstance in order to suffer death or confinement in state prison for a term of life without the possibility of parole.

(c) Every person not the actual killer who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists any actor in the commission of murder in the first degree shall suffer death or confinement in state prison for a term of life without the possibility of parole, in any case in which one or more of the special circumstances enumerated in subdivision (a) of this section has been found to be true under Section 190.4.

(d) Notwithstanding subdivision (c), every person not the actual killer, who, with reckless indifference to human life and as a major participant, aids, abets, counsels, commands, induces, solicits, requests, or assists in the commission of a felony enumerated in paragraph (16) of subdivision (a), which felony results in the death of some person or persons, who is found guilty of murder in the first degree therefor, shall suffer death or confinement in state prison for life without the possibility of parole, in any case in which a special circumstance enumerated in paragraph (16) of

subdivision (a) of this section has been found to be true under Section 190.4.

(e) The penalty shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

SEC. 10. Section 190.4¹ is added to the Penal Code, to read:

190.41. Notwithstanding Section 190.4 or any other provision of law, the corpus delicti of a felony-based special circumstance enumerated in paragraph (16) of subdivision (a) of Section 190.2 need not be proved independently of a defendant's extrajudicial statement.

SEC. 11. Section 190.5 of the Penal Code is amended to read:

190.5. (a) Notwithstanding any other provision of law, the death penalty shall not be imposed upon any person who is under the age of 18 at the time of the commission of the crime. The burden of proof as to the age of such person shall be upon the defendant.

(b) The penalty for a defendant found guilty of murder in the first degree, in any case in which one or more special circumstances enumerated in Section 190.2 or 190.25 has been found to be true under Section 190.4, who

was 16 years of age or older and under the age of 18 years at the time of the commission of the crime, shall be confinement in the state prison for life without the possibility of parole or, at the discretion of the court, 25 years to life.

(c) The trier of fact shall determine the existence of any special circumstance pursuant to the procedure set forth in Section 190.4.

SEC. 12. Section 206 is added to the Penal Code, to read:

206. Every person who, with the intent to cause cruel or extreme pain and suffering for the purpose of revenge, extortion, persuasion, or for any sadistic purpose, inflicts great bodily injury as defined in Section 12022.7 upon the person of another, is guilty of torture.

The crime of torture does not require any proof that the victim suffered pain.

SEC. 13. Section 206.1 is added to Penal Code, to read:

206.1. Torture is punishable by imprisonment in the state prison for a term of life.

SEC. 14. Section 859 of the Penal Code is amended to read:

859. When the defendant is charged with the commission of a public offense over which the superior court has original jurisdiction, by a written complaint subscribed under oath and on file in a court within the county in which the public offense is triable, he or she shall, without unnecessary delay, be taken before a magistrate of the court in which the complaint is on file. The magistrate shall immediately deliver to the defendant a copy of the complaint, inform the defendant that he or she has the right to have the assistance of counsel, ask the defendant if he or she desires the assistance of counsel, and allow the defendant reasonable time to send for counsel. However, in a capital case, the court shall inform the defendant that the defendant must be represented in court by counsel at all stages of the preliminary and trial proceedings and that the representation will be at the defendant's expense if the defendant is able to employ counsel or at public expense if he or she is unable to employ counsel, inquire of him or her whether he or she is able to employ counsel and, if so, whether the defendant desires to employ counsel of the defendant's choice or to have counsel assigned for him or her, and allow the defendant a reasonable time to send for his or her chosen or assigned counsel. The magistrate

must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the judicial district in which the court is situated. The officer shall, without delay and without a fee, perform that duty. If the defendant desires and is unable to employ counsel, the court shall assign counsel to defend him or her; in a capital case, if the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel to defend him or her. If it appears that the defendant may be a minor, the magistrate shall ascertain whether that is the case, and if the magistrate concludes that it is probable that the defendant is a minor, he or she shall immediately either notify the parent or guardian of the minor, by telephone or messenger, of the arrest, or appoint counsel to represent the minor. The prosecuting attorney shall deliver to, or make accessible for inspection and copying by, the defendant or counsel, copies of the police, arrest, and crime reports, upon the first court appearance of counsel, or upon a determination by a magistrate that the defendant can represent himself or herself. If unavailable to the prosecuting attorney at the time of that appearance or

determination, the reports shall be delivered within two calendar days. Portions of those reports containing privileged information need not be disclosed if the defendant or counsel has been notified that privileged information has not been disclosed. If the charges against the defendant are dismissed prior to the time the above-mentioned documents are delivered or made accessible, the prosecuting attorney need not deliver or make accessible those documents unless otherwise so compelled by law. The court shall not dismiss a case because of the failure of the prosecuting attorney to immediately deliver copies of the reports or to make them accessible for inspection and copying.

SEC. 15. Section 866 of the Penal Code is amended to read:

866. ~~(§ 459-)~~ (a) When the examination of witnesses on the part of the people is closed, any witnesses witness the defendant may produce must shall be sworn and examined.

Upon the request of the prosecuting attorney,
the magistrate shall require an offer of proof from the
defense as to the testimony expected from the witness.
The magistrate shall not permit the testimony of any
defense witness unless the offer of proof discloses to the

satisfaction of the magistrate, in his or her sound discretion, that the testimony of that witness, if believed, would be reasonably likely to establish an affirmative defense, negate an element of a crime charged, or impeach the testimony of a prosecution witness or the statement of a declarant testified to by a prosecution witness.

(b) It is the purpose of a preliminary examination to establish whether there exists probable cause to believe that the defendant has committed a felony. The examination shall not be used for purposes of discovery.

(c) No provision of this section shall compel or authorize the taking of depositions of witnesses.

SEC. 16. Section 871.6 is added to the Penal Code, to read:

871.6. If in a felony case the magistrate sets the preliminary examination beyond the time specified in Section 859b, in violation of Section 859b, or continues the preliminary hearing without good cause and good cause is required by law for such a continuance, the people or the defendant may file a petition for writ of mandate or prohibition in the superior court seeking immediate appellate review of the ruling setting the hearing or

granting the continuance. Such a petition shall have precedence over all other cases in the court to which the petition is assigned. If the superior court grants a peremptory writ, it shall issue the writ and a remittitur three court days after its decision becomes final as to the court if this action is necessary to prevent mootness or to prevent frustration of the relief granted, notwithstanding the rights of the parties to seek review in a court of appeal. When the superior court issues the writ and remittitur as provided in this section, the writ shall command the magistrate to proceed with the preliminary hearing without further delay, other than that reasonably necessary for the parties to obtain the attendance of their witnesses.

The court of appeal may stay or recall the issuance of the writ and remittitur. The failure of the court of appeal to stay or recall the issuance of the writ and remittitur shall not deprive the parties of any right they would otherwise have to appellate review or extraordinary relief.

SEC. 17. Section 872 of the Penal Code is amended to read:

872. (a) If, however, it appears from the examination that a public offense has been committed, and

there is sufficient cause to believe that the defendant is guilty thereof, the magistrate must shall make or indorse on the complaint an order, signed by him or her, to the following effect: "It appearing to me that the offense in the within complaint mentioned (or any offense, according to the fact, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe that the within named A.B. is guilty thereof, I order that he or she be held to answer to the same."

{b} The finding of sufficient cause may be based in whole or in part upon hearsay evidence in the form of written statements of witnesses in lieu of testimony. At the time the defendant appears before the magistrate for arraignment, the prosecuting attorney may file with the court, and furnish a copy to the defendant, a statement made under penalty of perjury of the testimony of any witness which the prosecution wishes to introduce into evidence at the examination in lieu of the testimony of the witness. The statement shall be considered as evidence in the examination. This subdivision shall not apply if the witness is a victim of a crime against his or her person, or the testimony of the witness includes eyewitness identification of a defendant, or the prosecuting attorney has not filed with the court and

furnished a copy to the defendant the statement of the testimony of the witness at the time of the arraignment or at least 40 court days prior to the date set for the preliminary hearing. For the purposes of this section an "eyewitness" is any person who sees the perpetrator during the commission of the crime charged, whether or not he or she can identify the perpetrator.

(c) Nothing in this section shall limit the right of the defendant to call any witness for examination at the preliminary hearing. If the witness called by the defendant is one whose statement of testimony was offered by the prosecuting attorney as provided in subdivision (b), the defendant shall have the right to cross-examine the witness as to all matters asserted in the statement. If the defendant makes reasonable efforts to secure the attendance of the witness but is unsuccessful in securing his or her attendance, the court shall grant a short continuance at the request of the defendant and shall require the prosecuting attorney to present the witness for cross-examination. If the prosecuting attorney fails to present the witness for cross-examination, the statement of the testimony of the witness shall not be considered as evidence in the examination.

(b) Notwithstanding Section 1200 of the Evidence

Code, the finding of probable cause may be based in whole or in part upon the sworn testimony of a law enforcement officer relating the statements of declarants made out of court offered for the truth of the matter asserted. Any law enforcement officer testifying as to hearsay statements shall either have five years of law enforcement experience or have completed a training course certified by the Commission on Peace Officer Standards and Training which includes training in the investigation and reporting of cases and testifying at preliminary hearings.

SEC. 18. Section 954.1 is added to the Penal Code, to read:

954.1. In cases in which two or more different offenses of the same class of crimes or offenses have been charged together in the same accusatory pleading, or where two or more accusatory pleadings charging offenses of the same class of crimes or offenses have been consolidated, evidence concerning one offense or offenses need not be admissible as to the other offense or offenses before the jointly charged offenses may be tried together before the same trier of fact.

SEC. 19. Section 987.05 is added to the Penal Code, to read:

987.05. In assigning defense counsel in felony

cases, whether it be the public defender or private counsel, the court shall only assign counsel who represents, on the record, that he or she will be ready to proceed with the preliminary hearing or trial, as the case may be, within the time provisions prescribed in this code for preliminary hearings and trials, except in those unusual cases where the court finds that, due to the nature of the case, counsel cannot reasonably be expected to be ready within the prescribed period if he or she were to begin preparing the case forthwith and continue to make diligent and constant efforts to be ready. In the case where the time of preparation for preliminary hearing or trial is deemed greater than the statutory time, the court shall set a reasonable time period for preparation. In making this determination, the court shall not consider counsel's convenience, counsel's calendar conflicts, or counsel's other business. The court may allow counsel a reasonable time to become familiar with the case in order to determine whether he or she can be ready. In cases where counsel, after making representations that he or she will be ready for preliminary examination or trial, without good cause is not ready on the date set, the court may relieve counsel from the case and may impose sanctions upon counsel, including, but not limited to, finding the

assigned counsel in contempt of court, imposing a fine, or denying any public funds as compensation for counsel's services. Both the prosecuting attorney and defense counsel shall have a right to present evidence and argument as to a reasonable length of time for preparation and on any reasons why counsel could not be prepared in the set time.

SEC. 20. Section 987.91 is added to the Penal Code, to read:

987.91. Notwithstanding the confidentiality requirements of Section 987.9, during the pendency of proceedings in the trial court the gross amount of money disbursed to, or expended on behalf of, a defendant pursuant to Section 987.9 shall be a matter of open public record.

Within 30 days after judgment is rendered in the trial court, the complete accounting of monies received and disbursed, as required by Section 987.9, shall be a matter of open public record.

SEC. 21. Section 1049.5 is added to the Penal Code, to read:

1049.5. In felony cases, the court shall set a date for trial which is within 60 days of the defendant's arraignment in the superior court unless, upon a showing

of good cause as prescribed in Section 1050, the court lengthens the time. If the court, after a hearing as prescribed in Section 1050, finds that there is good cause to set the date for trial beyond the 60 days, it shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

SEC. 22. Section 1050.1 is added to the Penal Code, to read:

1050.1. In any case in which two or more defendants are jointly charged in the same complaint, indictment, or information, and the court or magistrate, for good cause shown, continues the arraignment, preliminary hearing, or trial of one or more defendants, the continuance shall, upon motion of the prosecuting attorney, constitute good cause to continue the remaining defendants' cases so as to maintain joinder. The court or magistrate shall not cause jointly charged cases to be severed due to the unavailability or unpreparedness of one or more defendants unless it appears to the court or magistrate that it will be impossible for all defendants to be available and prepared within a reasonable period of time.

SEC. 23. Chapter 10 (commencing with Section

1054) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 10. DISCOVERY

1054. This chapter shall be interpreted to give effect to all of the following purposes:

(a) To promote the ascertainment of truth in trials by requiring timely pretrial discovery.

(b) To save court time by requiring that discovery be conducted informally between and among the parties before judicial enforcement is requested.

(c) To save court time in trial and avoid the necessity for frequent interruptions and postponements.

(d) To protect victims and witnesses from danger, harassment, and undue delay of the proceedings.

(e) To provide that no discovery shall occur in criminal cases except as provided by this chapter, other express statutory provisions, or as mandated by the Constitution of the United States or the Constitution of California.

1054.1. The prosecuting attorney shall disclose to the defendant or his or her attorney all of the following materials and information, if it is in the

possession of the prosecuting attorney or if the prosecuting attorney knows it to be in the possession of the investigating agencies:

(a) The names and addresses of persons the prosecutor intends to call as witnesses at trial.

(b) Statements of all defendants.

(c) All relevant real evidence seized or obtained as a part of the investigation of the offenses charged.

(d) The existence of a felony conviction of any material witness whose credibility is likely to be critical to the outcome of the trial.

(e) Any exculpatory evidence.

(f) Relevant written or recorded statements of witnesses or reports of such statements of witnesses who the prosecutor intends to call at the trial, including any reports or statements of experts made in conjunction with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the prosecutor intends to offer in evidence at the trial.

1054.2. No attorney may disclose or permit to be disclosed to a defendant the address or telephone number of a victim or witness whose name is disclosed to

the attorney pursuant to subdivision (a) of Section 1054.1 unless specifically permitted to do so by the court after a hearing and a showing of good cause.

1054.3. The defendant and his or her attorney shall disclose to the prosecuting attorney:

(a) The names and addresses of persons, other than the defendant, he or she intends to call as witnesses at trial, together with any relevant written or recorded statements of those persons or reports of such statements of those persons, including any reports or statements of experts made in connection with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the trial.

(b) Any real evidence which the defendant intends to offer in evidence at the trial.

1054.4. Nothing in this chapter shall be construed as limiting any law enforcement or prosecuting agency from obtaining nontestimonial evidence to the extent permitted by law on the date of the passage of this measure.

1054.5. (a) No order requiring discovery shall be made in criminal cases except as provided in this chapter. This chapter shall be the only means by which

the defendant may compel the disclosure or production of information from prosecuting attorneys, law enforcement agencies which investigated or prepared the case against the defendant, or any other persons or agencies which the prosecuting attorney or investigating agency may have employed to assist them in performing their duties.

(b) Before a party may seek court enforcement of any of the disclosures required by this chapter, the party shall make an informal request of opposing counsel for the desired materials and information. If within 15 days the opposing counsel fails to provide the materials and information requested, the party may seek a court order. Upon a showing that a party has not complied with Section 1054.1 or 1054.3 and upon a showing that the moving party complied with the informal discovery procedure provided in this subdivision, a court may make any order necessary to enforce the provisions of this chapter, including, but not limited to, immediate disclosure, contempt proceedings, delaying or prohibiting the testimony of a witness or the presentation of real evidence, continuance of the matter, or any other lawful order. Further, the court may advise the jury of any failure or refusal to disclose and of any untimely disclosure.

(c) The court may prohibit the testimony of a

witness pursuant to subdivision (b) only if all other sanctions have been exhausted. The court shall not dismiss a charge pursuant to subdivision (b) unless required to do so by the Constitution of the United States.

1054.6. Neither the defendant nor the prosecuting attorney is required to disclose any materials or information which are work product as defined in subdivision (c) of Section 2018 of the Code of Civil Procedure, or which are privileged pursuant to an express statutory provision, or are privileged as provided by the Constitution of the United States or the Constitution of California.

1054.7. The disclosures required under this chapter shall be made at least 30 days prior to the trial, unless good cause is shown why a disclosure should be denied, restricted, or deferred. If the material and information becomes known to or comes into the possession of a party within 30 days of trial, disclosure shall be made immediately, unless good cause is shown why a disclosure should be denied, restricted, or deferred. "Good cause" is limited to threats or possible danger to the safety of a victim or witness, possible loss or destruction of evidence, or possible compromise of other

investigations by law enforcement.

Upon the request of any party, the court may permit a showing of good cause for the denial or regulation of disclosures, or any portion of that showing, to be made in camera. A verbatim record shall be made of any such proceeding. If the court enters an order granting relief following a showing in camera, the entire record of the showing shall be sealed and preserved in the records of the court, and shall be made available to an appellate court in the event of an appeal or writ. In its discretion, the trial court may after trial and conviction, unseal any previously sealed matter.

SEC. 24. Section 1078 of the Penal Code, as amended by Chapter 1211 of the Statutes of 1987, is repealed.

1078: (a) (1) It shall be the duty of the trial court to examine the prospective jurors to select a fair and impartial jury. Except as provided in subdivision (b), the trial court shall permit reasonable examination of prospective jurors by counsel for the people and for the defendant, such examination to be conducted orally and directly by counsel.

(2) In each case it shall be the duty of the trial judge to provide for a voir dire process as speedy,

focused, and informative as possible, and to protect prospective jurors from undue harassment and embarrassment and from inordinately extensive, repetitive, or unfocused examinations.

{3} In discharging its duties, the court shall have discretion and control with respect to the form and subject matter and duration of voir dire examination. In exercising that discretion and control, the trial judge shall be guided by, among other criteria, the following:

{i} The nature of the charges and the potential consequences of a conviction.

{ii} Any unique or complex elements, legal or factual, in the case.

{iii} The individual responses or conduct of jurors which may reveal attitudes inconsistent with suitability to serve as a fair and impartial juror in the particular case.

{iv} The attorneys' need, under the circumstances, for information on which to exercise peremptory challenges intelligently.

{4} The trial court shall not permit questions which the trial court concludes would, as their sole purpose, do any of the following:

{i} Educate the jury panel to the particular

facts of the case-

(iii) Compel the jurors to commit themselves to vote in a particular way-

(iii) Prejudice the jury for or against any party-

(iv) Argue the case-

(v) Indoctrinate the jury-

(vi) Instruct the jury in a matter of law-

(vii) Attempt to accomplish any other improper purpose-

(5) The trial court shall require that questions be phrased by counsel in a neutral and nonargumentative form-

(b) As a pilot project applicable solely to the superior courts in Fresno and Santa Cruz Counties during the period July 1, 1988, to June 30, 1991, inclusive, all questions designed solely for assisting in the intelligent exercise of the right to peremptory challenge and not applicable to the determination of bias pursuant to Section 4073 or 4074, shall be propounded by the court. If such a question is requested by the prosecution or by counsel for the defense and is one of the standardized questions developed by the Task Force on Voir Dire, the court shall propound the question unless the court

determines that the question is clearly inappropriate. If a nonstandardized question is proposed by the prosecution or by counsel for the defense, the court may propound the question in its discretion.

(c) The Task Force on Voir Dire shall consist of eight members who shall serve without compensation, two of whom shall be appointed by the Judicial Council, two by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. All appointees shall have been members of the State Bar for at least five years prior to their appointment. The Judicial Council may provide staff to assist the task force.

All appointments to the Task Force on Voir Dire shall be made on or before March 1, 1988. The task force shall submit to the pilot project counties a list of standardized questions which meet the purposes of subdivision (b) on or before July 1, 1988.

(d) On or before January 1, 1992, the Judicial Council shall report to the Legislature on the effects of the pilot project on the efficiency in jury selection and on any effect on the conviction rate for particular crimes compared to a similar prior period in each pilot project county.

SEC. 25. Section 107B is added to the Penal

Code, to read:

1078. In a criminal case, the court shall conduct the examination of prospective jurors. However, the court may permit the prosecuting attorney, defense counsel, or defendant, if representing himself or herself, upon a showing of good cause, to supplement the examination by such further inquiry as it deems proper, or shall itself submit to the prospective jurors upon such a showing, such additional questions by the parties as it deems proper. Voir dire of any prospective jurors shall, where practicable, occur in the presence of the other jurors in all criminal cases, including death penalty cases.

Examination of prospective jurors shall be conducted only in aid of the exercise of challenges for cause.

The trial court's exercise of its discretion in the manner in which voir dire is conducted shall not cause any conviction to be reversed unless the exercise of that discretion has resulted in a miscarriage of justice, as specified in Section 13 of Article VI of the California Constitution.

SEC. 26. Section 1081 of the Penal Code is amended to read:

1081. {§ 354-} Upon the trial of a challenge to an individual juror, the juror challenged may be examined, as prescribed in Section 1078, as a witness to prove or disprove the challenge, and must answer every question pertinent to the inquiry.

SEC. 27. Section 1102.5 of the Penal Code is repealed.

††02-5- {a} Upon motion, the prosecution shall be entitled to obtain from the defendant or his or her counsel, all statements, oral or however preserved, by any defense witness other than the defendant, after that witness has testified on direct examination at trial. At the request of the defendant or his or her counsel, the court shall review the statement in camera and limit discovery to those matters within the scope of the direct testimony of the witness. As used in this section, the statement of a witness includes factual summaries, but does not include the impressions, conclusions, opinions, or legal research or theories of the defendant, his or her counsel, or agent.

{b} The prosecution shall make available to the defendant, as soon as practicable, all evidence, including the names, addresses and statements of witnesses, which was obtained or prepared as a consequence of obtaining any

discovery or information pursuant to this section:

(c) Nothing in this section shall be construed to deny either to the defendant or to the people information or discovery to which either is now entitled under existing law.

SEC. 28. Section 1102.7 of the Penal Code is repealed.

1102.7. Notwithstanding any other provision of law, the prosecution shall not be required to furnish to the defendant himself or herself, but only to his or her attorney, the address or telephone number of any victim or witness absent a showing of good cause as determined by the court, unless the defendant is acting as his or her own attorney.

SEC. 29. Section 1385.1 is added to the Penal Code, to read:

1385.1. Notwithstanding Section 1385 or any other provision of law, a judge shall not strike or dismiss any special circumstance which is admitted by a plea of guilty or nolo contendere or is found by a jury or court as provided in Sections 190.1 to 190.5, inclusive.

SEC. 30. Section 1387 of the Penal Code is repealed.

4387. An order terminating an action pursuant to this chapter, or Section 859b, 864, 874, or 995, is a bar to any other prosecution for the same offense if it is a felony or it is a misdemeanor charged together with a felony and the action has been previously terminated pursuant to this chapter, or Section 859b, 864, 874, or 995, or if it is a misdemeanor not charged together with a felony, except in those felony cases, or those cases where a misdemeanor is charged with a felony, where subsequent to the dismissal of the felony or misdemeanor the judge or magistrate finds that substantial new evidence has been discovered by the prosecution which would not have been known through the exercise of due diligence at or prior to the time of termination of the action or that the termination of the action was the result of the direct intimidation of a material witness, as shown by a preponderance of the evidence.

An order terminating an action is not a bar to prosecution if a complaint is dismissed before the commencement of a preliminary hearing in favor of an indictment filed pursuant to Section 944 and the indictment is based upon the same subject matter as charged in the dismissed complaint, information, or indictment.

However, if the previous termination was pursuant to Section 859b, 864, 874, or 995, the subsequent order terminating an action is not a bar to prosecution if:

(a) Good cause is shown why the preliminary examination was not held within 60 days from the date of arraignment or plea.

(b) The motion pursuant to Section 995 was granted because of any of the following reasons:

(1) Present insanity of the defendant.

(2) A lack of counsel after the defendant elected to represent himself or herself rather than being represented by appointed counsel.

(3) Ineffective assistance of counsel.

(4) Conflict of interest of defense counsel.

(5) Violation of time deadlines based upon unavailability of defense counsel.

(6) Defendant's motion to withdraw a waiver of the preliminary examination.

(c) The motion pursuant to Section 995 was granted after dismissal by the magistrate of the action pursuant to Section 874 and was recharged pursuant to Section 739.

SEC. 31. Section 1387 is added to the Penal

Code, to read:

1387. An order terminating an action pursuant to this chapter is a bar to any other prosecution for the same offense if it is a misdemeanor, but not if it is a felony.

SEC. 32. Section 1430 of the Penal Code is repealed.

1430. The prosecuting attorney shall deliver to or make accessible for inspection and copying by the defendant or counsel, copies of the police, arrest, and crime reports, upon the first court appearance of counsel, or upon a determination by a magistrate that the defendant can represent himself or herself. If unavailable to the prosecuting attorney at the time of that appearance or determination, the reports shall be delivered within two calendar days. Portions of those reports containing privileged information need not be disclosed if the defendant or his or her counsel has been notified that privileged information has not been disclosed. If the charges against the defendant are dismissed prior to the time the above-mentioned documents are delivered or made accessible, the prosecuting attorney need not deliver or make accessible such documents unless otherwise so compelled by law. The court shall not dismiss a case

because of the failure of the prosecuting attorney to immediately deliver copies of the reports or to make them accessible for inspection and copying.

SEC. 33. Section 1511 is added to the Penal Code, to read:

1511. If in a felony case the superior court sets the trial beyond the period of time specified in Section 1049.5, in violation of Section 1049.5, or continues the hearing of any matter without good cause, and good cause is required by law for such a continuance, either party may file a petition for writ of mandate or prohibition in the court of appeal seeking immediate appellate review of the ruling setting the trial or granting the continuance. Such a petition shall have precedence over all other cases in the court to which the petition is assigned, including, but not limited to, cases that originated in the juvenile court. If the court of appeal grants a peremptory writ, it shall issue the writ and a remittitur three court days after its decision becomes final as to that court if such action is necessary to prevent mootness or to prevent frustration of the relief granted, notwithstanding the right of the parties to file a petition for review in the Supreme Court. When the court of appeal issues the writ and remittitur as

provided herein, the writ shall command the superior court to proceed with the criminal case without further delay, other than that reasonably necessary for the parties to obtain the attendance of their witnesses.

The Supreme Court may stay or recall the issuance of the writ and remittitur. The Supreme Court's failure to stay or recall the issuance of the writ and remittitur shall not deprive the respondent or the real party in interest of its right to file a petition for review in the Supreme Court.

SEC. 34. If any provision of this measure or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the measure which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.

SEC. 35. The statutory provisions contained in this measure may not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

45 +

NEWS RELEASE

from: Secretary of State March Fong Eu
1230 J Street, Sacramento, CA 95814
(916) 445-6375

For Immediate Release
October 4, 1988

Contact: Caren Daniels-Meade or
Cathy Mitchell

SECRETARY OF STATE EU REPORTS NEW CRIMINAL LAW INITIATIVE DRIVE BEGINS

SACRAMENTO — Secretary of State March Fong Eu announced today (October 4) the beginning of circulation efforts for a criminal law initiative, the fourth initiative in circulation aimed at the 1990 election ballot.

The new proposed constitutional amendment, titled "Criminal Law", needs 595,485 registered voter signatures by March 2, 1989, to earn a spot on the June 1990 ballot. Its sponsors include State Senator Ed Royce, R-Anaheim, State Senator Ed Davis, R-Valencia, Los Angeles County Supervisor Peter Schabarum, and Robert Henderson of Murrieta, Edward Jagels of Bakersfield, Richard Riordan of Los Angeles, Doris Tate of Rancho Palos Verdes, James Cloninger of Orange, Sterling Norris of Northridge, Albert MacKenzie of Rancho Palos Verdes, and Anthony Rackauckas, Jr. of Anaheim. Contact phone number for the Crime Victims' California Justice Committee is (213) 824-2011.

The initiative seeks to make a number of changes to the California Constitution regarding criminal cases. It would "direct courts (to) afford (the) accused no greater constitutional rights than (are) afforded by the federal Constitution; prohibit post-indictment preliminary hearings; express people's right to due process and speedy, public trials; permit hearsay at preliminary hearings; allow more joined actions; and provide reciprocal discovery." It also seeks to make statutory changes, including "expanding first degree murder definition; increasing penalties for specified murders; expanding special circumstance murders subject to capital offense provisions; increasing maximum punishment of minors convicted of first degree murder to life without parole;

(over)

EU — page 2.

limiting preliminary examination testimony and discovery; and limiting jury questioning."

The three other initiatives in circulation include "Financial Responsibility Evidence. Repeal of Law", "Congressional Power to Declare Peace", and "Ticket Selling".

A copy of the title and summary and circulation calendar is attached. Copies of the complete text are available upon request.

###

88104CDM

INITIATIVE CHECK LIST

Phone Notification from AG - Date/Time: Oct. 3, 1988 - 11:00

Title of Initiative: Community Home

Type of Initiative: A CA S CA and S

Number of Pages 6-1 Number of Proponents 118

Date and Time Initiative will be ready for pick-up 1:30 pm

Initial/Date/Time

1. AG 10/3/88 OSSI informs Deborah/David/Barbara/Caren and Don day and time initiative will be ready for pick-up.
2. AG 10/3/88 OSSI gives check list to Word Processing Technician to prepare calendar.
3. AG 10/3/88 Word Processing Technician prepares and proofs fraud calendar and log and returns both to OSSI.
4. AG 10/3/88 OSSI proofs calendar and log.
5. AG 10/3/88 OSSI gives final calendar and log to Elections Analyst.
6. AG 10/3/88 Elections Analyst reviews and has Elections Chief sign. Elections Analyst returns signed calendar to OSSI.
7. AG 10/3/88 OSSI makes copies of initiative calendar for each proponent.
8. AG 10/3/88 OSSI attaches copy of Political Reform Act of 1974 Requirements to proponent's copy of initiative calendar.
9. AG 10/3/88 OSSI prepares Mail/Freight Request Form. OSSI hand carries Mail/Freight Request form and initiative calendar for each proponent (ready for mailing) to Service and Supply. Initiative calendar sent on 10/3/88 to each proponent.
Date
- (This must be sent to each proponent same day AG prepares Title and Summary).
10. AG 10/3/88 OSSI advises Assistant Chief when initiative calendar is sent to proponent(s).

INITIATIVE CALENDAR CHECK LIST
Page two

11. gn 10/3/4:30

OSSI distributes copies of initiative calendar same day AG prepares Title and Summary to:

~~/~~ Tony
~~/~~ Caren
~~/~~ Jerry
~~/~~ Deborah
~~/~~ Barbara

12. da 10/11 3:00

OSSI distributes copies of initiative calendar to:

~~/~~ All CC/ROV
~~/~~ Political Reform (7 copies)
~~/~~ Elections Staff
~~/~~ LA Office via LA Pouch -
~~/~~ J.R. Schultz (12 copies)
~~/~~ Initiative mailing list
~~/~~ Extra copies for public
~~/~~ distribution
~~/~~ Master copy

13. da 10/11 3:00

OSSI advises Assistant Chief of completion of above distribution.

14. da 10/11 11:00

OSSI makes copies of log and distributes as follows:

1. Initiative canvass binder
2. Vi Daniels - FTB
3. Archives
4. Oliver Cox
5. Initiative Clipboard

15. da 10/11 11:00

OSSI prepares folder for public distribution.

16. da 10/11 10:30

OSSI prepares index cards for each initiative.

17. gn 10/3/4:30

OSSI staples Mail/Freight Request form to back of INITIATIVE CHECK LIST.

18. da 10/11 3:30

OSSI returns completed INITIATIVE CHECK LIST to Assistant Chief.

19. 1 1

Assistant Chief returns check list to Election Analyst.

ELECTIONS DIVISION
MAIL/FREIGHT REQUEST

Mail Submitted to Mail Room

10/3
Date

1 21:00pm
Time

Request mail to be sent no later than

10/3/88
Date

MAIL:

- ☒ 1st Class
☐ Bulk
☐ Book Rate
☐ Presort
☐ Third Class

CHARGES:

Amount: \$2.40

Pieces: 11

FREIGHT:

- ☐ UPS
☐ Purolator
☐ Greyhound (Next bus out: Yes ____ No ____)
☐ Air-Freight
☐ Truck Lines

ACTIVITY:

- ☐ Outreach (Specify: _____)
☐ County Mailings (#'s: _____)
☐ Ballot Pamphlet
☐ Other (Specify: _____)
☒ Initiative Calendar to Proponents 11

Mail room sent requested mail on

10-3-88
11/9/88
Initial (Service and Supply)